



International Bureau

Federal Communications Commission
Washington, DC 20554

DA 05-818

Released: March 29, 2005

March 28, 2005

Brian R. Jones
QUALCOMM Incorporated
5775 Morehouse Drive
San Diego, CA 92121

Re: QUALCOMM Incorporated
Call Sign: E040324
File No. SES-LIC-20040730-01081
File No. SES-AMD-20050311-00311

Dear Mr. Jones:

On July 30, 2004, QUALCOMM Incorporated ("QUALCOMM") filed the above-captioned application, and amended it on March 11, 2005, for authority to operate a Conventional Ku-Band¹ Earth Station. For the reason(s) stated below, we dismiss, without prejudice, your application and its amendment as defective:

Currently, Qualcomm provides its BoaTRACS service under a separate authorization between ships and fixed satellite service (FSS) earth stations, pursuant to a waiver of the Table of Frequency Allocations² granted in 1996.³ The International Bureau (Bureau) placed several conditions on that waiver, including a requirement that Qualcomm operate on a non-harmful interference basis relative to other operations in the Ku-band.⁴ Qualcomm was granted a license to operate earth stations to provide its BoaTRACS service on January 3, 1997.⁵

¹ 11.7-12.2 and 14.0-14.5 GHz bands.

² 47 C.F.R. § 2.106.

³ Mobile Satellite-Based Communications Service by Crescomm Transmission Services, Inc. and Qualcomm Incorporated, *Order*, 11 FCC Rcd 10944 (Int'l Bur. and OET, 1996)(*Crescomm/Qualcomm Order*).

⁴ *Crescomm/Qualcomm Order*, 11 FCC Rcd at 10950-51 (para. 14).

⁵ See Satellite Communications Services, *Public Notice*, Report No. DS-1698 (released Jan. 8, 1997).

In this application for a new license, Qualcomm requests blanket licensing authority for additional earth stations for its BoaTRACS service. Qualcomm proposes to operate those earth stations at an EIRP level 3 dB higher than the earth stations in its 1997 license. Qualcomm also plans to operate in the coastal waters of the United States, including Alaska and Hawaii, as well as in Canada. However, Qualcomm's application is not substantially complete, because Qualcomm provided only the information that would have been required to support a license modification. Accordingly, we dismiss Qualcomm's application, without prejudice to refiling.

Subsequent to Qualcomm's application, the Commission adopted a number of new rules applicable to the operation of Earth Station on Vessels (ESVs).⁶ The substantive requirements of these rules took effect on March 2, 2005.⁷ Specifically, Section 25.222(a) places several requirements on Ku-band ESV operators, including the following:

- Ku-band ESV operators must meet an off-axis EIRP envelope consistent with the requirements of Sections 25.209 and 25.212 of the Commission's rules. (47 C.F.R. §§ 25.222(a)(1) through (4).)
- Ku-band ESV operators must maintain a pointing error of less than 0.2°, between the orbital location of the target satellite and the axis of the main lobe of the ESV antenna. (47 C.F.R. § 25.222(a)(6).)
- All emissions from the ESV shall automatically cease within 100 milliseconds if the angle between the orbital location of the target satellite and the axis of the main lobe of the ESV antenna exceeds 0.5°, and transmission will not resume until such angle is less than 0.2°. (47 C.F.R. § 25.222(a)(7).)
- There shall be a point of contact in the United States available 24 hours a day, seven days a week, with authority and ability to cease all emissions from the ESVs, either directly or through the facilities of a U.S. hub or a hub located in another country with which the United States has a bilateral agreement that enables such cessation of emissions. (47 C.F.R. § 25.222(a)(8).)

Your amendment filed, after many of the ESV rules took affect, on March 11, 2005 did not include a request for waiver of these requirements and your application is, therefore, incomplete. We also note that, if Qualcomm refiles, it will be required to comply with the information requirements adopted in the ESV Order, currently pending approval by

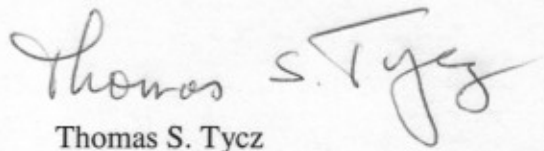
⁶ Procedures to Govern the Use of Satellite Earth Stations on Board Vessels in the 5925-6425 MHz/3700-4200 MHz Bands and 14.0-14.5 GHz/11.7-12.2 GHz Bands, *Report and Order*, IB Docket No. 02-10, FCC 04-286 (released Jan. 6, 2005)(*ESV Order*).

⁷ See 70 F.R. 4775 (Jan. 31, 2005).

the Office of Management and Budget, in the event that those rules take effect prior to action taken on Qualcomm's application.

Accordingly, pursuant to Section 25.112(a)(1)⁸ of the Commission's rules, 47 C.F.R. § 25.112(a) (1), and Section 0.261 of the Commission's rules on delegations of authority, 47 C.F.R. § 0.261, Qualcomm's application, as amended, IS DISMISSED as defective without prejudice to refiling for failure to request a waiver.⁹

Sincerely,

A handwritten signature in cursive script that reads "Thomas S. Tycz". The signature is written in dark ink and is positioned above the printed name and title.

Thomas S. Tycz
Chief, Satellite Division

⁸ 47 C.F.R. Section 25.112(a)(1). *See also* Echostar Satellite LLC, *Order on Reconsideration*, DA 04-4056, (released December 27, 2004).

⁹ If Qualcomm refiles an application identical to the one dismissed, with the exception of supplying the missing information, it need not pay an application fee. *See* 47 C.F.R. Section 1.1109(d).